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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
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14 UNITED STATES OF AMERICA,	)	No. CR 3-05-70758-JCS
	)	
15 Plaintiff,	)	[PROPOSED] ORDER EXCLUDING TIME
	)	UNDER THE SPEEDY TRIAL ACT
16 v.	)	
	)	
17 MAXIMILLIAN LEE SCHWEITZER,	)	
	)	
18 Defendant.	)	
	)	
19 _____	)	

20 This matter came on the calendar of the Honorable Joseph C. Spero on September 16, 2005  
21 for initial appearance on a criminal complaint. At the parties' request, the Court continued the matter  
22 until October 7, 2005 for a detention hearing and until October 14, 2005 for preliminary hearing or  
23 arraignment. On October 7, 2005, the defendant appeared before the Honorable James Larson for a  
24 detention hearing. The parties continued the matter until October 17, 2005 for submission of a  
25 psychologist's report and to set a preliminary hearing and arraignment. On October 17, 2005, the  
26 parties again appeared before Judge Larson. The parties and the Court received and reviewed the  
27 psychologist's report. The Court continued the matter until October 26, 2005 for preliminary hearing  
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ORDER EXCLUDING TIME  
No. CR 3-05-70758-JCS

1 or arraignment. At the appearances on September 16, October 7 and October 17, the defendant  
2 agreed to an extension of time for the preliminary hearing under Federal Rule of Criminal Procedure  
3 5.1(d) and an exclusion of time under the Speedy Trial Act.

4 At each of the appearances, the parties requested a continuation of the Rule 5.1(d) extension of  
5 time and an exclusion of time under the Speedy Trial Act for the period from September 16 through  
6 October 26, 2005 based upon the need for effective preparation of counsel. The government provided  
7 discovery to the defense, which the defense needs time to review. Defense counsel received the  
8 psychologist's report on October 17 and needs time to review it. Moreover, the parties are engaged in  
9 discussions which appear likely to lead to pre-indictment resolution of this case. Therefore, the parties  
10 are requesting an extension of time under Rule 5.1(d) and an exclusion of time under the Speedy Trial  
11 Act. The parties agree that the time from September 16 through October 26, 2005 should be extended  
12 under Rule 5.1(d) and excluded in computing the time within which an information or indictment must  
13 be filed. See 18 U.S.C. § 3161(h)(8)(A) and (B)(iv).

14 Accordingly, the Court HEREBY ORDERS that the time from September 16 through October  
15 26, 2005 is extended under Rule 5.1(d) and excluded under the Speedy Trial Act, 18 U.S.C. § 3161.  
16 The Court finds that the failure to grant the requested exclusion would deny the defendant's counsel  
17 reasonable time necessary for effective preparation, taking into account the exercise of due diligence.  
18 See 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that the ends of justice served by granting the  
19 requested exclusion outweigh the best interest of the public and the defendant in a speedy trial and in  
20 the prompt disposition of criminal cases. See 18 U.S.C. § 3161(h)(8)(A). The Court therefore  
21 concludes that this exclusion of time should be made under 18 U.S.C. § 3161(h)(8)(A).  
22 SO ORDERED.

23  
24 DATED: October 20, 2005

  
HONORABLE NANDOR J. VADAS  
UNITED STATES MAGISTRATE JUDGE

25  
26 Approved as to form:  
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28

1 /s/ Steven Kalar  
STEVEN KALAR, ESQ.  
2 Assistant Federal Public Defender  
3 Attorney for Defendant

4 /s/ Monica Fernandez  
5 MONICA FERNANDEZ  
6 Assistant United States Attorney  
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